

CITY OF NEWBURYPORT  
 ZONING BOARD OF APPEALS  
 60 PLEASANT STREET • P.O. BOX 550  
 NEWBURYPORT, MA 01950  
 (978) 465-4400 • (978) 465-4452 (FAX)

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 2015 NOV 19 P 4:26

RECORD OF PROCEEDINGS AND DECISION  
 FOR A DIMENSIONAL VARIANCE

An application for a Dimensional Variance was filed by:

**Steven J. Lewis**  
 78 Moseley Avenue  
 Newburyport, MA 01950

for property owned by **Steven J. Lewis** for the following request:

*divide existing lot into two lots, requiring variances for lot area and frontage*

The application was filed at the City Clerk's Office on **9/15/15** under the Zoning Ordinance Section X-H.3 Powers of the Board and Section **VI.A Dimensional Controls**.

The application is for the premises at **18-20 Ashland Street** in the **R2** Zoning District, as indicated in the Newburyport Assessor's Office as map and parcel **68-149** and recorded in the Essex South District Registry of Deeds as Book and Page **8846-240**. The newspaper notices for the public hearing were posted on **9/28/15** and **10/05/15** in the Newburyport Daily News.

A public hearing was held for the above application on **11/10/15** at 7:15 p.m. at which time the Board heard the petition for a Dimensional Variance. After the close of the hearing on **11/10/15**, upon motion made by Member **Robert Ciampitti** and duly seconded by Member **Duncan LaBay**, the Board voted to **APPROVE** the petition for the Dimensional Variance.

The following members present and voting, and voting as follows with respect to the petition:

Robert Ciampitti	<u>Yes</u>	Jamie Pennington	<u>Yes</u>
Duncan LaBay	<u>Yes</u>	Richard Goulet	<u>Yes</u>
Edward Ramsdell, Chair	<u>Yes</u>	Libby McGee, Associate	<u>Absent</u>
Renee Bourdeau, Associate	<u>Absent</u>		

Having received the necessary two-thirds super majority vote or all the members of the ZBA, in accordance with M.G.L. c.40A, Section 10, as adopted, the petition for the Dimensional Variance was therefore **APPROVED**.

## FINDINGS

After the public hearing, in accordance with the criteria set forth in the City of Newburyport Zoning Ordinance Section X-H-6 Dimensional Variances, the Newburyport Zoning Board of Appeals made the following findings:

1. Initially the applicant sought relief to divide the property into two parcels in the R2 zoning district. The applicant proposed to construct a single-family home on Proposed Lot 1, at the corner of Ashland Court and Ashland Street. The existing home on Proposed Lot 2 would have remained and its use as a two-family would have been retained. Relief was sought for Lot Area for both proposed lots (7,251 sq. ft. where 10,000 sq. ft. is required for single family and 9,352 sq. ft. where 15,000 sq. ft. is required for two family). Relief for lot frontage was sought (91 ft. where 120 ft. required for two family). An SPNC was also sought to allow an addition of over 500 sq. ft. for each of the two units on the existing structure. At the time of an initial hearing on 13 October the applicant requested a continuance to 27 October and subsequently to 10 November 2015. Revised the plans were submitted for the 10 November hearing that eliminated the two-family use on the original parcel and proposed a single family structure. This revision reduced the types of relief required. The applicant proposed to split the lot into two parcels, each with a single-family structure, removing an existing addition and constructing a new one not exceeding the 500 square foot threshold that initially would have required an SPNC. There were insignificant changes in the lot area of the respective lots although the new proposal of a single-family use instead of the two-family reduced the lot area non-conformity of that lot significantly.
2. The property is located on a corner lot and faces a street that provides the dividing line between an R2 District (where the subject lot is located) and an R3 District. The applicant stated that there are five factors that make this parcel unique: the large length of frontage, the location of the existing structure of the lot, the fact that it is a corner lot with open frontage, the location of the parcel at the confluence of other zoning districts and the idea that this parcel is one of the only ones remaining in the North End that could support a new structure.
3. The ZBA found that this lot is unique to others in the neighborhood in that there is the long frontage and a large secondary front yard (between the existing structure and Ashland Court). Also, it should be noted that the existing home on the property, the William Merrill House, is a historic structure listed in the National Register of Historic Places as a contributing structure in the Newburyport Historic District. This listing potentially significantly constrains demolition, including demolition of over 25% of the buildings exterior walls under Newburyport's Demolition Control Overlay District.
4. There is a substantial hardship, financial or otherwise which results from the literal enforcement of the applicable zoning restrictions with respect to the land and structure for which the variance is sought. Literal enforcement imposes a significant hardship upon the property.
5. The relief sought will be desirable and without substantial detriment to the public good. It is desirable to develop the property consistent with the growth patterns of the neighborhood that are replete with lots and houses, such as the one being proposed.
6. Strict application of the Ordinance would deprive the applicant of reasonable use of the lot and building in a manner equivalent to the use permitted to be made by other owners of their neighboring lands,

structure, or structures in the same district.

7. Relief sought may be given without nullifying or substantially derogating from the intent or purpose of the Ordinance.

8. The unique conditions and circumstances are not the result of the actions of the applicant taken subsequent to the adoption of the Ordinance.

9. Relief will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the District. There are other properties where relief has been granted for various reasons within this zoning district.

10. Evidence was presented and the Board found that the proposed change continues to be in conformity with the neighborhood and will not be substantially more detrimental to the neighborhood than the pre-existing non-conforming structure.

## PLAN REFERENCES

This variance is approved based on the following plans and/or documents:

"Site Plan for Zoning Board of Appeals 18-20 Ashland Street Newburyport, MA" by GA Consultants dated 10/20/15; and

"Additions/Alterations to the Existing Multi-Family Residence at 18-20 Ashland Street Newburyport, MA 01950" by Scott M. Brown, Architect, dated 8/28/15 and revised 11/3/15, consisting of pages A1 through A4

Any alterations to these plans shall require subsequent approval by the Zoning Board of Appeals.

## CONDITIONS OF APPROVAL

The following conditions do not limit any other rights and remedies the City of Newburyport may have.

1. This Variance shall not take effect until a copy of the decision bearing the certification of the City Clerk of Newburyport is recorded in the Essex County South Registry of Deeds under the name of the owner of record or is recorded and noted on the owner's certification of title. The fee for recording or registering shall be paid by the owner or applicant.

2. This Variance will lapse if not exercised within one year from the date of granting.

3. As part of the proposed project the historic structure will be renovated with period-appropriate materials and design as outlined in the application.

4. The Approval Not Required subdivision plan submitted to the Planning Board shall show all improvements as shown on the revised site plan dated 10-20-15, include the granite curbing replacement along Ashland Street, and include a note on the plan that references or lists any stipulations included in the variance approval;

5. Prior to the issuance of a building permit a covenant shall be recorded at the Registry of Deeds that restricts the use of the principal structure on each lot to a single-family residential use.

6. Subject to final approval from the Department of Public Services, the concrete and bituminous sidewalk along the frontage of both lots shall be replaced with a full-depth brick sidewalk as specified by the Department of Public Services. Denial of such approval from the Department of Public Services shall require an amendment and approval from the Zoning Board of Appeals;

7. Subject to final approval from the Department of Public Services, three (3) street trees (which shall be at least 3 inches in diameter when planted) shall be located within the right of way along the street frontage along Ashland Street as shown on the revised site plan. Denial of such approval from the Department of Public Services shall require an amendment and approval from the Zoning Board of Appeals;

8. The final construction drawings associated with a Building Permit Application for the William Merrill House (c.1800) or the proposed two-car garage shall conform to the renovation plans and architectural elevations including the following:

- The exterior will be resided with cedar clapboards (with a 2.75 inch exposure) with wood trim and period details for the windows, doors, corner boards, cornice and other building elements;
- The window openings on the front and side facades will include double-hung, wood windows with period profiles and muntin patterns;
- The front door will be solid wood and the stairs will be replaced with hardwood with period handrails and balustrades;
- The chimneys will be repaired and repointed; and
- The roof will be re-shingled using a commercial grade, architectural asphalt shingle.

9. Any alterations to the architectural style, materials, footprint, height, or projections on either principal structure shall require subsequent approval by the Zoning Board of Appeals;

10. The final construction drawings associated with a Building Permit Application for the proposed Greek-Revival house on the corner of Ashland Street and Ashland Court shall conform to the materials, elevations, and improvements including the following:

- A thin-brick chimney;
- Copper gutters and downspouts;
- Cedar siding with a 2.75-3.5 inch exposure;
- SDL. Double-Hung, G/B, Wood Windows;
- Solid wood exterior doors;
- Granite steps and landing;
- A parged or thin-brick foundation (with a brick shelf);
- Standing-seam metal lead-coated copper porch or bay roofs;
- Slateline or equal asphalt shingles; and
- Authentic exterior trim details.

11. Subject to final approval from the Department of Public Services, the concrete curbing along the frontage of Ashland Street shall be replaced with granite curbing as specified and approved by the Department of Public Services. Denial of such approval from the Department of Public Services shall

require an amendment and approval from the Zoning Board of Appeals;

12. Subject to final approval from the Department of Public Services, both driveways shall have a granite cobblestone aprons to match 17-19 Ashland Street and all driveways. Denial of such approval from the Department of Public Services shall require an amendment and approval from the Zoning Board of Appeals;

13. All proposed parking areas and walkways shall be constructed of brick pavers that match the sidewalks;

14. The proposed evergreen and shade trees, shown on Lot 1, shall be at least 3 inches in caliper when planted and shall be either spruce, hemlock, oak or maple. The proposed privet hedge, shown on Lot 2, shall be at least 36 inches in height when planted along the property line adjacent the abutting driveway and parking area of 22-24 Ashland Street. All other existing trees shown on the revised site plan shall be preserved and protected with fencing during construction and all existing trees within 20 feet of the rear property lines of both lots shall be preserved and protected during construction;

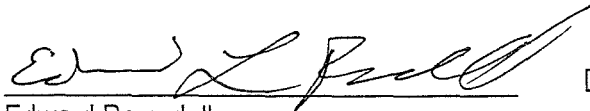
15. Any changes to the proposed on- or off-site improvements shall be subject to further review and approval by the Zoning Board of Appeals; and

16. Prior to construction, a construction management plan shall be presented to the Planning Department and it shall be used to coordinate contractors, provide a primary point-of-contact, address on-street parking management, and ensure the hours of operations for construction adhere to all applicable city ordinances.

17. An easement will be acquired for the existent shed that slightly intrudes onto the property at 5-7 Ashland Court.

This decision was filed with the Newburyport City Clerk on **11/19/15** and sent registered mail to the applicant and by regular mail to the Parties in Interest and the abutting Municipalities.

Undersigned Chair of the Zoning Board of Appeals,

  
Edward Ramsdell

Date: 11/19/15

CERTIFICATION OF CITY CLERK

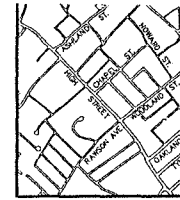
I, Richard Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A, Section 17, that the decision for the property known as **18-20 Ashland Street** was filed in the Office of the City Clerk on **11/19/15**.

Pursuant to M.G.L. Chapter 40A, Section 11 this decision was also filed with the Newburyport Planning Board on **11/19/15**.

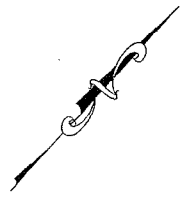
Twenty (20) days have elapsed since the decision was filed and **NO APPEAL** has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A, Section 17 and filed within (20) twenty days after the date of filing of this decision in the Office of the City Clerk.

\_\_\_\_\_  
Newburyport City Clerk

Date: \_\_\_\_\_



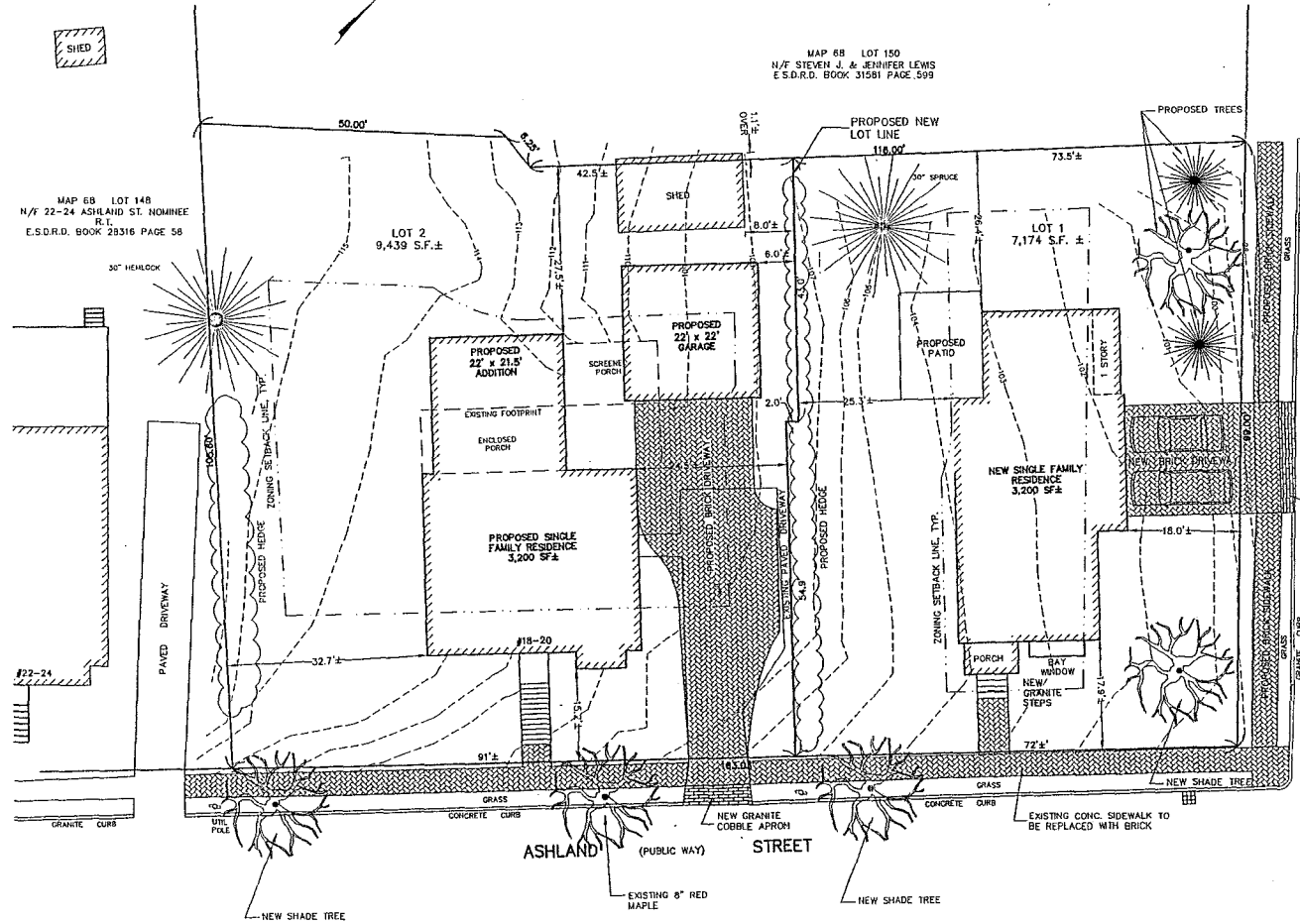
LOCUS PL  
SCALE: 1"=100'



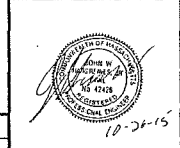
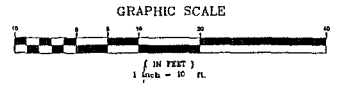
SHED

MAP 68 LOT 148  
N/F 22-24 ASHLAND ST. NOMINEE  
R.L.  
E.S.D.R.D. BOOK 28316 PAGE 58

MAP 68 LOT 150  
N/F STEVEN J. & JENNIFER LEWIS  
E.S.D.R.D. BOOK 31581 PAGE 509



SITE PLAN  
SCALE: 1"=10'



SHEET 2 OF 2  
DATE: OCTOBER 20, 2015  
REVISIONS:

JOHN W. HARGREAVES, JR., P.E.  
DATE: 10-20-2015

SITE PLAN  
FOR  
ZONING BOARD OF AP.  
18-20 ASHLAND STREE  
NEWBURYPORT, MA

PREPARED FOR:  
DENNIS R. & JUDY A KEATING  
36 MOSELEY AVE, NEWBURYPORT, MA 0

GA CONSULTANTS, INC., PROFES:

ADDITIONS/ALTERATIONS  
TO THE:

**EXISTING  
MULTI-FAMILY  
RESIDENCE**

AT  
19-20 ASHLAND STREET  
NEWBURYPORT, MA 01950

**ARCHITECT:**

**SCOTT M. BROWN**

29 WATER STREET,  
SUITE 209  
NEWBURYPORT, MA 01950  
T. 978.465.3535

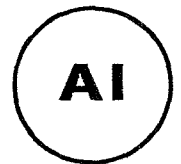
WWW.SCOTTBROWNARCHITECT.COM

MARK	DATE	REVISIONS
	8-28-15	ZBA SUBMISSION
	11-3-15	ZBA RESUBMISSION



**PROPOSED  
FRONT ELEVATION**

SCALE : 3/16" = 1'-0"



Date: 11/2/15  
File name: 20AshlandSt\_SD\_SingleFamilyElevation.vwx



ADDITIONS/ALTERATIONS  
TO THE:

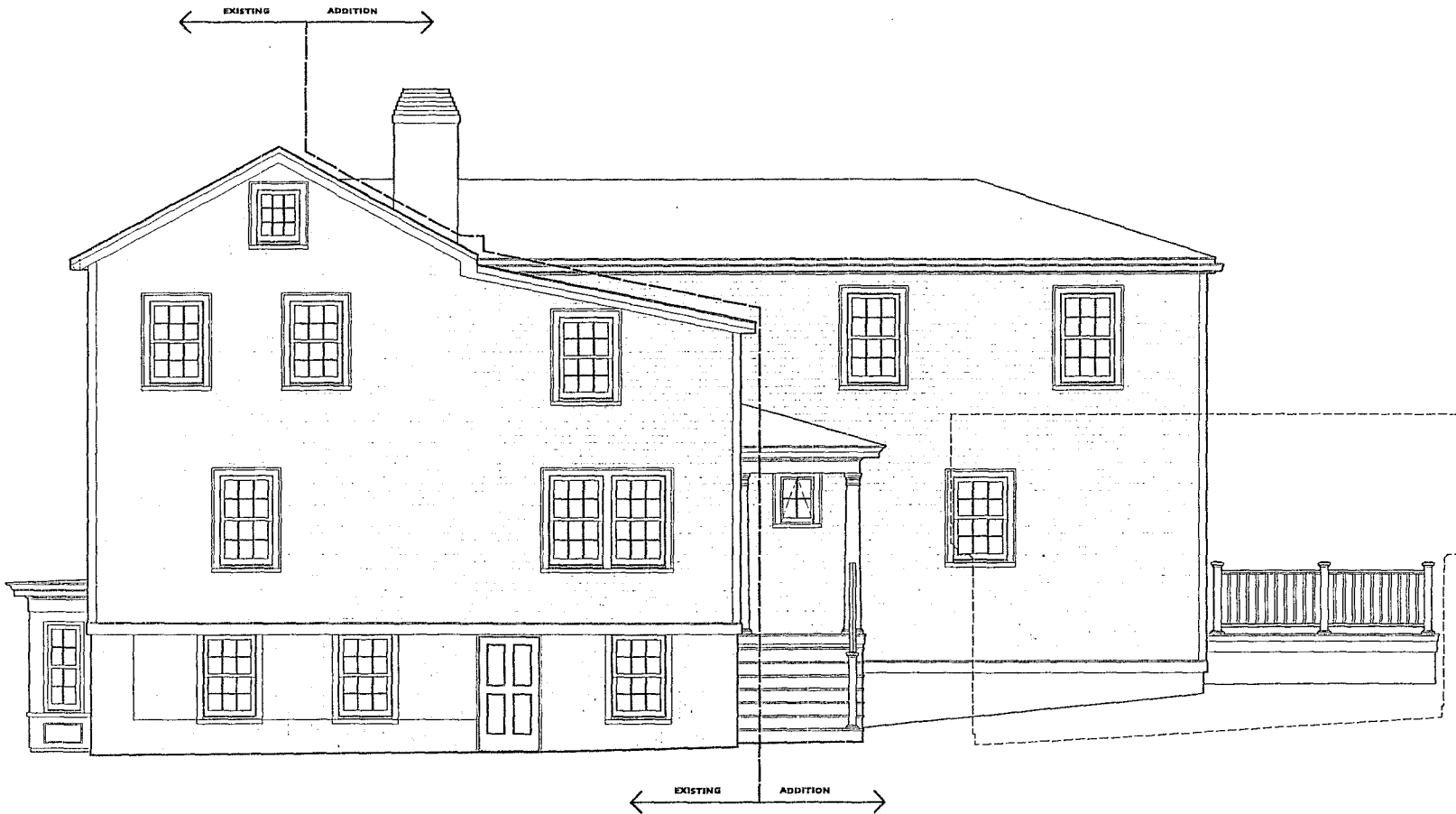
**EXISTING  
MULTI-FAMILY  
RESIDENCE**

AT  
18-20 ASHLAND STREET  
NEWBURYPORT, MA 01950

ARCHITECT:

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NEWBURYPORT, MA 01950  
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MARK	DATE	REVISIONS
	8-28-15	ZBA SUBMISSION
	11-3-15	ZBA RESUBMISSION

**PROPOSED  
RIGHT SIDE ELEVATION**

SCALE: 3/16" = 1'-0"



ADDITIONS/ALTERATIONS  
TO THE:

**EXISTING  
MULTI-FAMILY  
RESIDENCE**

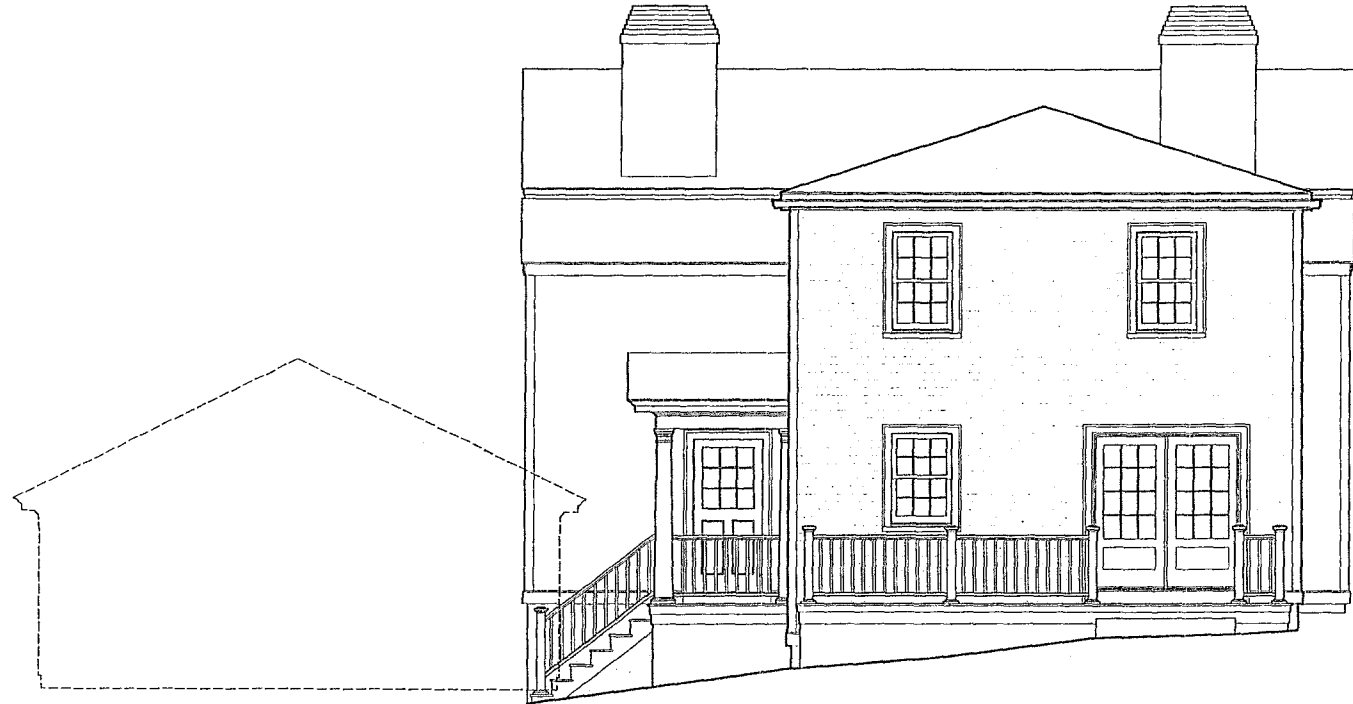
AT  
18-20 ASHLAND STREET  
NEWBURYPORT, MA 01950

ARCHITECT:

**SCOTT M. BROWN**

29 WATER STREET,  
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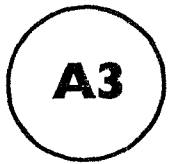
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MARK	DATE	REVISIONS
	8-28-15	ZBA SUBMISSION
	11-3-15	ZBA RESUBMISSION

**PROPOSED  
REAR ELEVATION**

SCALE : 3/16" = 1'-0"



ADDITIONS/ALTERATIONS

TO THE:

**EXISTING  
MULTI-FAMILY  
RESIDENCE**

AT

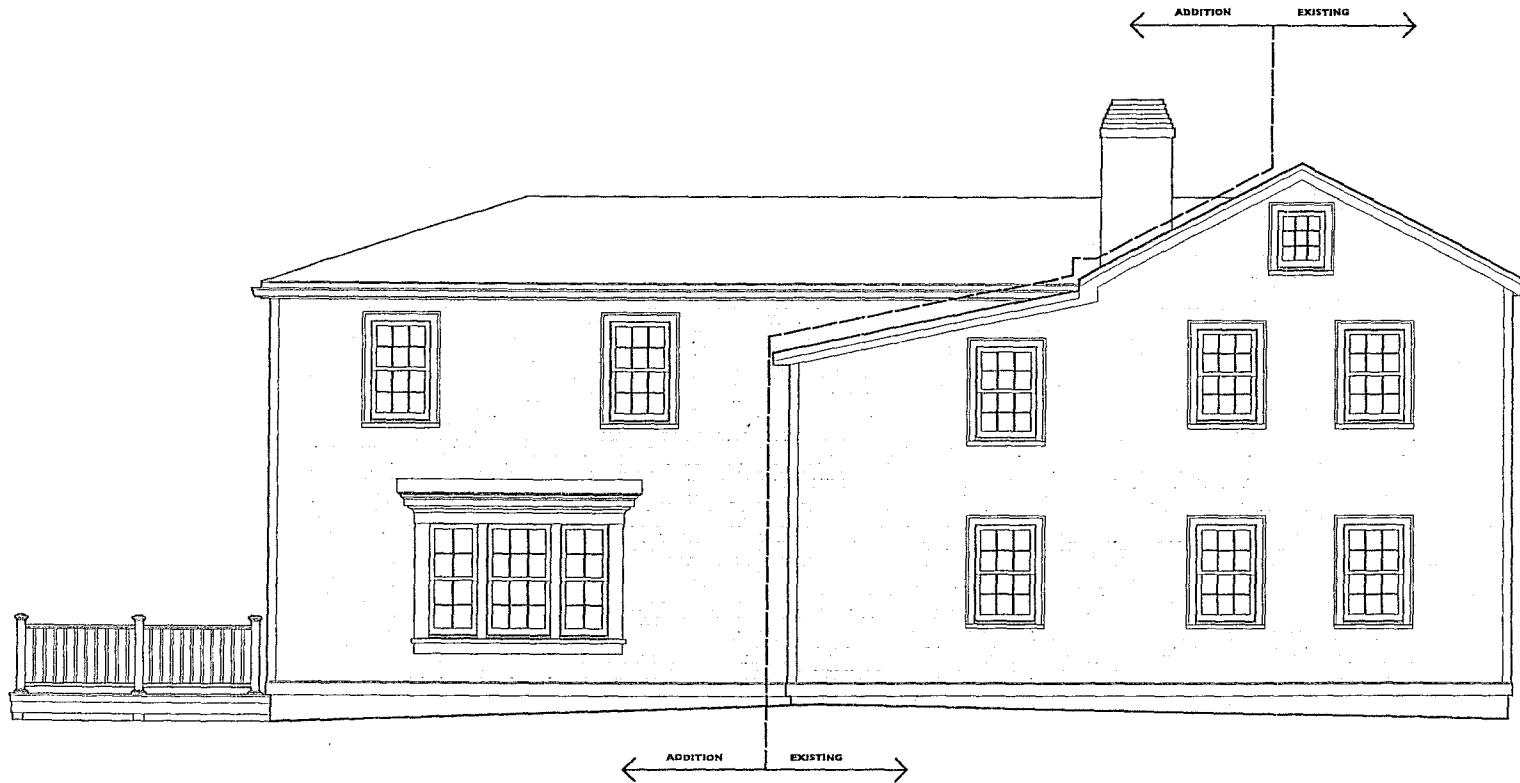
18-20 ASHLAND STREET  
NEWBURYPORT, MA 01950

ARCHITECT:

**SCOTT M. BROWN**

29 WATER STREET,  
SUITE 209  
NEWBURYPORT, MA 01950  
T. 978.465.3535

WWW.SCOTTBROWNARCHITECT.COM



MARK DATE REVISIONS

8-28-15 ZBA SUBMISSION

11-3-15 ZBA RESUBMISSION

**PROPOSED  
LEFT SIDE ELEVATION**

SCALE : 3/16" = 1'-0"

